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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,606	11/13/2003	Rondell Paul Little JR.	71564-01	9006

7590 12/23/2005

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EXAMINER

BOYKIN, TERRESSA M

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,606

Applicant(s)

LITTLE ET AL.

Examiner

Terressa M. Boykin

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1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Applicant's Arguments**

Applicant's arguments filed 10-11-05 have been fully considered but they are not persuasive.

First, while the reference does not specifically disclose each of the components *together* by way of an example, the reference *does* disclose each entity and directs one skilled in the art that various combinations may be used according to the desired need. One of ordinary skill would, according to the desired product and as a matter of routine experimentation, ascertain which combination should be employed. Choosing the use of polyethylene terephthalate would be an obvious choice even among the other materials since polyethylene terephthalate more widely and commonly used for the preparation of packaging, such as bottles etc.

Second, with regard to applicants comment that Giblen does not *prefer* the use UV absorbers is not persuasive or agreed upon. In fact, not only are the use of UV absorbers clearly and repeatedly disclosed in the specification, but the reference also discloses the inclusion of UV absorbers in claim 4 of the reference within the amounts as claimed. Further, with regard to applicant's arguments that Giblin does not include UV absorbers *in the discussion on packaging* compositions etc., is not persuasive. In the instant case a UV absorber would be employed according to the use desired or intended use of the composition for one of skilled in the art.

With regard to applicants newly presented amendments, it is noted that applicants

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have now amended claims to read an "extruded" composition. However, it is noted that the claims are still primarily drawn to a composition and the intended future use or of that composition, in the instant case, extrusion, would not render the claims unanticipated. Further, although the reference itself does not specifically mention the word "extruding" as such, the reference clearly discloses that bottles may be produced from the composition. It is extremely and vastly well known that bottles of such material may be prepared from various types of extruding methods.

Further, as mentioned in the previous action that the UV absorber may be present in the formulation at from about 0.001% to about 3%, preferably, if present, between 0.001 and 0.05%, although in certain cases preferred ranges may be from 0.05% to 1% which continues to overlap applicants claimed amount. Note also that the optical brightener ( f-dye) is used in the formulation at from about 0.001% to about 3%, preferably between 0.001% and 0.5%, e.g., 0.1%, 0.2%, 0.3%, etc. which also continues to overlap applicants claimed invention.

Again, with regard to the absorbency values note:

<u>Absorbency Values for Two Typical Plastic Bottles</u>		
<u>Wavelength</u> <u>Nm</u>	<u>Polyethylene (HDPE);</u> <u>0.960 mm thickness</u>	<u>Polycarbonate (PC);</u> <u>0.423 mm thickness</u>
254 (non-visible)	1.612	1.886
310 (non-visible)	1.201	0.919
360 (non-visible)	0.980	0.441
590 (visible)	0.525	0.190
640 (visible)	0.477	0.168

\*Note: all readings are taken in "A" mode (absorbency mode)

\*Note: zero instrument with every new wavelength change and/or new sample.

The effectiveness at screening of at least 85% would appear to be inherent since the composition appears to have been produced using the same components, parameters and amounts as claimed.

Thus, since the reference discloses each and every component of the claimed

invention, the claimed invention cannot be deemed as novel and accordingly is unpatentable.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### **Correspondence**

**Please note that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources. Applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terressa Boykin whose telephone number is

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571 272-1069. The examiner can normally be reached on Monday through Friday from 6:30am to 3:00pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The general information number for listings of personnel is ( 571-272-1700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tmb

  
Examiner Terressa Boykin